

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD L. MOSHIEN, JR)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-180(ERIE)
)	
UNITED STATES FEDERAL BUREAU)	JUDGE MCLAUGHLIN
OF PRISONS, FCI MCKEAN PRISON)	MAGISTRATE JUDGE BAXTER
MEDICAL DEPARTMENT, and)	
WARDEN JAMES SHERMAN,)	Electronically Filed
)	
Defendants.)	

**DEFENDANTS' MOTION TO EXTEND TIME FOR FILING
A RESPONSIVE PLEADING AND/OR DISPOSITIVE MOTION**

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure, defendants the United States Bureau of Prisons, FCI McKean Prison Medical Department and Warden James Sherman, by their undersigned counsel, hereby file this Motion to Extend Time for Filing a Responsive Pleading and/or Dispositive Motion, and in support thereof state as follows:

1. *Pro se* plaintiff Donald L. Moshien, Jr. filed a Complaint in the above-captioned action, alleging tort and constitutional claims. Plaintiff alleges that he received improper medical care in connection with the treatment of his Hepatitis C virus while incarcerated at a federal prison in McKean County, Pennsylvania ("FCI McKean"). As a result, plaintiff seeks to recover \$5 million in compensatory damages.

2. Plaintiff effectuated service on defendants on May 11, 2006. Consequently, defendants' responsive pleading or dispositive motion is currently due on July 10, 2006.

3. Defendants needs additional time, however, to respond because of the current litigation demands of defense counsel.

4. Defendants also need additional time to respond to the Complaint because defendants include an individual who is being sued as a result of actions taken during his federal employment with the Federal Bureau of Prisons and, as a result, the individual is currently requesting representation in this action from the Department of Justice. The United States Attorney, in turn, may not represent the individual defendant until such representation requests are approved by the Department of Justice. To date, such approval has not yet been received.

5. Defendants therefore request an additional forty-five (45) days, or until August 24, 2006, to respond to the allegations set forth in plaintiff's Complaint.

6. Such a brief extension will not unduly delay this litigation.

7. Neither this motion, the limited representation by the Department of Justice for purposes of this motion, nor the individual defendant's request for representation are intended to waive any defense which may be asserted in this case.

8. Plaintiff is a *pro se* inmate and, as a result, has not been contacted regarding his consent or opposition to this motion.

WHEREFORE, defendants respectfully request that the Court grant their request for a forty-five (45) day extension, or until August 24, 2006, to file their responsive pleading and/or dispositive motion to plaintiff's Complaint.

A proposed order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/ Megan E. Farrell

MEGAN E. FARRELL
Assistant U.S. Attorney
Western District of PA
700 Grant St., Suite 4000
Pittsburgh, PA 15219
(412) 894-7429
PA ID # 76972

Counsel for Defendants

Dated: June 23, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2006, a true and correct copy of the within Defendants' Motion to Extend Time for Filing a Responsive Pleading and/or Dispositive Motion was served via electronic and/or first-class mail, postage prepaid upon the following:

Donald L. Moshien, Jr.
No. 10924-052
USP Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

s/ Megan E. Farrell
MEGAN E. FARRELL
Assistant U.S. Attorney
